

1 Robert C Weems (CA SBN 148156)  
Margaret M. Weems (CA SBN 164030)  
2 WEEMS LAW OFFICES  
769 Center Blvd., PMB 38  
3 Fairfax, CA 94930  
Ph: 415.881.7653  
4 Fx: 866.610.1430  
[rcweems@weemslawoffices.com](mailto:rcweems@weemslawoffices.com)  
5 [mmweems@weemslawoffices.com](mailto:mmweems@weemslawoffices.com)

6 Attorneys for Plaintiffs  
JILL BURNELL AND ALEX BURNELL

8 UNITED STATES DISTRICT COURT  
9  
10 NORTHERN DISTRICT OF CALIFORNIA

11 JILL BURNELL AND ALEX BURNELL,

12 Plaintiffs,

13 v.

14 MARIN HUMANE SOCIETY, COUNTY  
OF MARIN, NANCY MCKENNEY,  
15 CINDY MACHADO, STEVE HILL,  
MICHELLE ROGERS, BRUCE  
WAGMAN, ALBERT BURNHAM,  
16 NATHAN KEEFER, DINA RICCI, and  
GENEVIEVE GHILOTTI,

17 Defendants.  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

Case No. 3:14-cv-05636 JSC

OPPOSITION TO MOTION AMEND  
JUDGMENT [DOC #49] BY ALBERT  
BURNHAM

Hearing: October 8, 2015  
Time: 9:00 a.m.  
Judge: Jacquelyn Scott Corley  
Courtroom: F, 15<sup>th</sup> Fl (SF)

1 PLAINTIFFS JILL AND ALEX BURNELL (“Plaintiffs” or “BURNELLS”) oppose  
 2 DEFENDANT ALBERT BURNHAM’s (“BURNHAM”) Motion to Enter Judgment Pursuant to  
 3 FRCP 54(b). Rule 54(b) “attempts to strike a balance between the undesirability of piecemeal  
 4 appeals and the need for making review available at a time that best serves the needs of the parties.”  
 5 *Elliott v. Archdiocese of New York*, 682 F.3d 213 (3d Cir. 2012); *Stockman's Water Co., LLC v.*  
 6 *Vaca Partners, L.P.*, 425 F.3d 1263 (10th Cir. 2005). The conclusion the BURNHAM might become  
 7 freed “from further unduly burdensome litigation” is not sufficient basis to demonstrate “just cause.”  
 8 Indeed, review of the finding of judicial immunity may not be available if the higher court does not  
 9 find that “the district court properly granted 54(b) certification.” The order requested by  
 10 BURNHAM would be premature because no just cause is shown, no cost is associated or  
 11 demonstrated that would be suffered by BURNHAM to wait for a final order, and a premature entry  
 12 of judgment would expose BURNELLS (and presumably BURNHAM) to burdensome multiple  
 13 motions for costs (including sanctions and attorneys’ fees), and appeal proceedings. In fact, it is  
 14 reasonable to infer that the sole improper purpose for BURNHAM’s request is to create a track of  
 15 post-judgment motion practice and appellate proceeding to interfere with the BURNELLS  
 16 prosecution of this matter against the remaining co-defendants and conspirators.

17 Further, BURNHAM mischaracterizes the allegations against him and the BURNELLS’ case  
 18 theory generally. This action is a result of a conspiracy to deprive the BURNELLS of their horses.  
 19 The allegations include the claim that MHS’ practice in seizure cases is to cover up misconduct by  
 20 their officers by among other reasons holding constitutionally insufficient post-seizure hearings. The  
 21 allegations concerning BURNHAM was not based on sour grapes view of his “judicial function”  
 22 creating an opinion after hearing, but rather complained of the fraud by him concerning his  
 23 qualifications which resulted in his appointment to the post of County Hearing Officer. Once  
 24 appointed a County Hearing Officer he was hired and paid by MHS because he was a County  
 25 Hearing Officer to serve as their post deprivation Hearing Officer in 597.1 hearings. By his own  
 26 estimate he served that purpose in collusion with MHS on four to five occasions per year over five

1 years. He always found in MHS' favor in those proceedings. The BURNELLS allege that MHS in  
2 particular is a vigilante organization that seeks to rig the game against its targets and misappropriates  
3 only a color of law to further its schemes.

4 BURNHAM also mischaracterizes the First Amended Complaint. That he was dismissed is  
5 clearly indicated. The facts recited concerning the misrepresentation of his qualifications and its  
6 implications concerning MHS' practices are preserved for the purposes of telling the complete story  
7 and preserving the record in the event of any future reconsideration or appeal and to avoid having to  
8 refer to multiple pleadings. BURNHAM's "burden" is resolved by an amendment to the caption of  
9 the operative pleading by striking his name from the caption. Judicial efficiency is not enhanced by  
10 issuing a piecemeal final judgment to benefit only one disgruntled party.

11  
12  
13 Dated: September 15, 2015

WEEMS LAW OFFICES

14 /s/ Margaret M. Weems

15 Margaret M. Weems,  
16 Attorney for Defendant,  
17 JILL BURNELL AND ALEX BURNELL  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27